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October 3, 2022

Via CM/ECF and Email

The Honorable Cathy Seibel
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, New York 10601
chambersnysdseibel@nysd.uscourts.gov

**Re: 85 Flatbush Mezz LLC v. TH Holdco LLC (In re 85 Flatbush RHO Mezz LLC),
Case No. 7:22-cv-06233-CS (S.D.N.Y.) (Related to Case No. 7:22-cv-06241-CS)**

Dear Judge Seibel:

We write on behalf of Appellant 85 Flatbush Mezz LLC (“Mezzanine Lender”), and with the consent of Appellants in the related case referenced above (the “Debtors”), regarding their separate appeals from the Bankruptcy Court’s Findings of Fact, Conclusions of Law, and Order Confirming TH Holdco LLC’s Second Amended Chapter 11 Plan, as Modified by This Order (Bankr. Dkt. No. 280) (the “Confirmation Order”). As the Court will recall, the Bankruptcy Court previously entered an Order Staying Effective Date of TH Holdco’s Confirmed Plan and Closing on TH Holdco’s Credit Bid Pending Appeal (Bankr. Dkt. No. 312) (the “Stay Order”). Pursuant to the Stay Order, the Bankruptcy Court stayed the effectiveness of the Confirmation Order through and including October 3, 2022, to permit this Court an opportunity to adjudicate the above-referenced appeals before the Confirmation Order became effective, Appellee TH Holdco LLC (“TH Holdco”) consummated its plan and the sale of real property contemplated therein, and TH Holdco then turned to arguing that the above appeals are moot and that no effective relief may be granted to Mezzanine Lender or the Debtors.

Given the length of the Bankruptcy Court’s stay, which expires today absent relief here, this Court entered an expedited briefing schedule in Mezzanine Lender’s and the Debtors’ appeals so that this Court could adjudicate the appeals prior to October 3, 2022. The parties in the appeals completed briefing on September 16, 2022, and await this Court’s ruling. On September 28, 2022, this Court entered an Order advising as follows:

[A]lthough the Court had intended to decide this appeal on or before October 3, 2022, it will not be able to do so, due to unforeseen circumstances. The Court expects to rule within a week or two thereafter.

(Case No. 22-cv-06233, Dkt. No. 15.)



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In light of the foregoing, Mezzanine Lender requested that TH Holdco consent to a brief extension of the current stay pending appeal merely to afford this Court the short additional time required to issue its rulings. TH Holdco refused to consent to the brief one- or two-week extension of the stay absent the posting of a substantial additional bond. As a result, Mezzanine Lender wrote to the Bankruptcy Court on September 29, 2022, requesting a short extension of the current stay pending appeal. TH Holdco has opposed the request to the Bankruptcy Court. The Bankruptcy Court has not yet issued any ruling or otherwise addressed Mezzanine Lender's request.

Accordingly, out of an abundance of caution, Mezzanine Lender writes to request that this Court enter today an Order extending the Stay Order and the existing stay of the Confirmation Order pending appeal until three business days after this Court has had an opportunity to issue its ruling in the appeals in order to maintain the status quo. This short extension is necessary and appropriate given that the expiration date for the stay was selected precisely to afford this Court an opportunity to adjudicate the appeals.

Thank you for the Court's attention to this matter.

Respectfully submitted,

SEYFARTH SHAW LLP

A handwritten signature in blue ink, appearing to read 'M. Ryan Pinkston'.

M. Ryan Pinkston

cc: Kevin Nash
Fred Ringel
Lori Schwartz
Lauren Macksoud
Robert Richards
Emilie Cooper